

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rio Brazos

Subfile No. CHRB-001-0002

MOTION TO AMEND CONSENT ORDER
DESCRIBING THE WATER RIGHTS OF THE BRAZOS MUTUAL
DOMESTIC WATER CONSUMERS ASSOCIATION IN SUBFILE CHRB-001-0002

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to amend the Consent Order filed on May 1, 2002 (Doc. No. 6675) in Subfile CHRB-001-0002 describing the water rights of defendant Brazos Mutual Domestic Water Consumers Association and as grounds therefore plaintiff states:

1. The Consent Order entered on May 1, 2002 in Subfile CHRB-001-0002 that describes the water rights of the Brazos Mutual Domestic Water Consumers Association (“the Association”) does not include a description of the amount of water or the priority of the Association’s water rights. These elements of the Association’s water rights were reserved for future determination. *See* Consent Order at 2.

2. The State has reviewed the information in the water rights files of the Office of the State Engineer with the staff of the Water Rights Division, and conferred with representatives of the Association, and the State believes the Association has, to date, placed a maximum amount of 17.2

acre-feet of water to beneficial use annually from the points of diversion described in the Consent Order filed on May 1, 2002. The Association has also recently obtained an extension of time to apply water to beneficial use from the State Engineer. See Approval of Application for Extension of Time dated October 8, 2013 attached hereto as Exhibit 1.

3. The State requests that the Court adjudicate the right of the Association to divert and use 17.2 acre-feet per annum from the points of diversions and for the purposes of use described in the Consent Order filed on May 1, 2002, with a priority date of October 1962, subject to the Association's ability to place additional amounts of water to beneficial use under the terms of the extension of time granted to the Association by the State Engineer.

2. A proposed Order granting this motion is attached hereto as Exhibit 2.

3. Counsel for the Association, Jeffery H. Albright, does not oppose the granting of this motion

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the description of the elements of the Association's water rights in the Consent Order entered on May 1, 2002 in Subfile CHRB-001-0002 as follows:

A. DOMESTIC & SANITATION (Groundwater & Surface Water Combined):

Priority: October 1962

Amount of Water: 17.2 acre-feet per annum

FURTHER, the entry of the Order amending the Consent Order entered on May 1, 2002 should state that it has no effect on the October 8, 2013 approval by the State Engineer of the Association's request for an extension of time to put water to beneficial use under RG-24272 et al; that the Order has no effect upon the administrative authority of the State Engineer over the permitting and licensing

process, nor does the Court assume any authority with respect to that process by the entry of the Order; and that the Association's ability to put additional water to beneficial use remains subject to all administrative requirements of the Office of the State Engineer including, but not limited to, any requirements for the completion of works and the application of water to beneficial use.

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December 2013, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville

EDWARD G. NEWVILLE